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Date: 2 August 1948

I certify that Document Number TC-42-16 was introduced into evidence as Exhibit Number GB-44 in the Trial by the International Tribunal of Hermann GOERING, et al, which commenced on 20 November 1945, and that the attached photostat is a true and correct copy of the original.

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Paul Joosten

PAUL A. JOOSTEN

General Secretary
International Military Tribunal

Nuremberg, 28 July 1948

[4.]

TC 72

INTERNATIONAL MILITARY TR. CIVIL
NURNBERG, GERMANY
GB Exhibit 39
Filed Dec 6, 1945

Miscellaneous No. 9 (1939)

DOCUMENTS

CONCERNING

GERMAN-POLISH RELATIONS

AND THE

OUTBREAK OF HOSTILITIES BETWEEN GREAT BRITAIN AND GERMANY ON SEPTEMBER 3, 1939

Presented by the Secretary of State for Foreign Affairs to Parliament by Command of His Majesty

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30. Peace is a valuable and desirable thing. Our generation, which has shed its blood in several wars, surely deserves a period of peace. But peace, like almost everything in this world, has its price, high but definable. We in Poland do not recognise the conception of "peace at any price." There is only one thing in the life of men, nations and States which is without price, and that is honour.

GB-44

No. 16.

*Memorandum communicated to the German Government by the Polish Government on May 5, 1939, in reply to the German Government memorandum of April 28, 1939.**

(Translation.)

As appears from the text of the Polish-German Declaration of the 26th January, 1934,† and from the course of the negotiations which preceded its conclusion, this declaration had as its object to lay the foundations for a new framing of mutual relations based on the following two principles:—

(*a*) The renunciation of the use of force as between Poland and Germany, and

(*b*) The friendly settlement by means of free negotiations of any contentious questions which might arise in the relations between the two countries.

The Polish Government have always understood in this manner their obligations under the declaration, and it is in this spirit that they have always been prepared to conduct neighbourly relations with the German Reich.

2. The Polish Government had foreseen for several years that the difficulties encountered by the League of Nations in carrying out its functions at Danzig would create a confused situation which it was in Poland's and Germany's interest to unravel. For several years the Polish Government had given the German Government to understand that frank conversations should be held on this subject. The German Government, however, avoided these and confined themselves to stating that Polish-German relations should not be exposed to difficulties by questions relating to Danzig. Moreover, the German Government more than once gave assurances to the Polish Government regarding the Free City of Danzig. It is sufficient here to quote the declaration made by the Chancellor of the Reich on the 20th February, 1938.

The Chancellor made publicly in the Reichstag the following declaration regarding Danzig:—

"The Polish State respects the national conditions in this State, and the Free City and Germany respect Polish rights. It has thus been possible to clear the way for an understanding

* No. 14.

† No. 1.

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which, while arising out of the question of Danzig, has to-day in spite of the efforts of certain disturbers of the peace succeeded in effectively purifying relations between Germany and Poland and has transformed them into sincere and friendly collaboration."

It was only after the events of September, 1938, that the German Government suggested the opening of Polish-German conversations regarding the alteration in the situation in Danzig and regarding the transit routes between the Reich and East Prussia. In this connexion the German memorandum of the 28th April, 1939, refers to the suggestion put forward by the Reich Minister for Foreign Affairs in his conversation of the 21st March, 1939, with the Polish Ambassador in Berlin. In this conversation emphasis was laid on the German side on the necessity for a rapid settlement of these questions which was a condition of the Reich maintaining its proposals in force in their entirety. The Polish Government, animated by the desire to maintain good relations with the Reich, although surprised at the pressing form in which these proposals were put forward, and by the circumstances in which they were advanced, did not refuse conversations although they considered the German demands thus couched to be unacceptable.

In order to facilitate endeavours to reach an amicable solution of the question, the Polish Government on the 26th March, 1939, formulated their point of view in writing to the German Government, stating that they attached full importance to the maintenance of good neighbourly relations with the German Reich. The Polish point of view was summarised in the following points:—

(*a*) The Polish Government propose a joint guarantee by Poland and Germany of the separate character of the Free City of Danzig, the existence of which was to be based on complete freedom of the local population in internal affairs and on the assurance of respect for Polish rights and interests.

(*b*) The Polish Government were prepared to examine together with the German Government any further simplifications for persons in transit as well as the technical facilitating of railway and motor transit between the German Reich and East Prussia. The Polish Government were inspired by the idea of giving every possible facility which would permit the citizens of the Reich to travel in transit across Polish territory, if possible without any hindrances. The Polish Government emphasised that their intention was to secure the most liberal treatment possible of the German desiderata in this respect with the sole reservation that Poland could not give up her sovereignty over the belt of territory through which the transit routes would run. Finally, the Polish Government indicated that their attitude in the question of facilitating communications across Pomerania depended on the attitude of the Reich regarding the Free City of Danzig.

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In formulating the above proposals the Polish Government acted in the spirit of the Polish-German Declaration of 1934 which, by providing the direct exchanges of views on questions of interest to both countries, authorised each State to formulate its point of view in the course of negotiations.

The Polish Government received no formal reply to their counter-proposals for a month, and it was only on the 28th April, 1939, that they learnt from the Chancellor's speech and from the German Government's memorandum that the mere fact of the formulation of counter-proposals instead of the acceptance of the verbal German suggestions without alteration or reservation had been regarded by the Reich as a refusal of discussions.

It is clear that negotiations in which one State formulates demands and the other is to be obliged to accept those demands unaltered are not negotiations in the spirit of the declaration of 1934 and are incompatible with the vital interests and dignity of Poland.

In this connexion it should be pointed out that the Polish Government were unable at that time to express an opinion regarding the Polish-German-Hungarian guarantee of the independence of Slovakia which was alluded to in a general way in the German memorandum and more precisely stated in the Chancellor's speech of the 28th April, 1939, since a proposal of this description and in this form had never been made to them before. It is, moreover, difficult to imagine how such guarantee could be reconciled with the political and military protectorate of the Reich over Slovakia which had been announced a few days previously before the German Reich formulated its proposals towards Poland.

3. The Polish Government cannot accept such an interpretation of the declaration of 1934 as would be equivalent to a renunciation of the right to conclude political agreements with third States and, consequently, almost a renunciation of independence in foreign policy. The policy of the German Reich in recent years has clearly indicated that the German Government have not drawn conclusions of this sort from the declaration as far as they themselves were concerned. The obligations publicly accepted by the Reich towards Italy and the German-Slovak Agreement of March, 1939, are clear indications of such an interpretation by the German Government of the declaration of 1934. The Polish Government must here recall that in their relations with other States they give and require full reciprocity as being the only possible foundation of normal relations between States.

The Polish Government reject as completely without foundation all accusations regarding the alleged incompatibility of the Anglo-Polish Mutual Guarantee of April, 1939, with the Polish-German Declaration of 1934. This guarantee has a purely defensive character and in no way threatens the German Reich, in the same way as the Polish-French Alliance, whose compatibility with the Declaration of 1934 has been recognised by the German Reich. The declaration of 1934 in its introductory paragraphs clearly stated that both Governments have "decided to base their mutual relations on the

principles laid down in the Pact of Paris of the 27th August, 1928." Now the Pact of Paris, which constituted a general renunciation of war as an instrument of national policy, just as the declaration of 1934 constituted such renunciation in bilateral Polish-German relations, contained the explicit reservation that "any signatory Power which shall hereafter seek to promote its national interests by resort to war should be denied the benefits furnished by this treaty." Germany accepted this principle in signing the Pact of Paris and re-affirmed it in the declaration of 1934, together with other principles of the Pact of Paris. It appears from this that the declaration of 1934 would cease to be binding on Poland should Germany have recourse to war in violation of the Pact of Paris. Poland's obligations arising out of the Polish-British understanding would come into operation in the event of German action threatening the independence of Great Britain, and, consequently, in the very circumstances in which the declaration of 1934 and the Pact of Paris had ceased to be binding on Poland as regards Germany.

The German Government in making a complaint against the Polish Government for undertaking obligations to guarantee the independence of Great Britain and in regarding this as a violation by Poland of the declaration of 1934, ignore their own obligations towards Italy of which the Chancellor spoke on the 30th January, 1939, and in particular their obligations towards Slovakia contained in the agreement of the 18th and 23rd March, 1939. The German guarantees of Slovakia did not exclude Poland [*sic*], and, indeed, as appears from the provisions of the above agreement regarding the distribution of garrisons and military fortifications in Western Slovakia, were directed primarily against Poland.

4. It appears from the above that the Government of the German Reich had no justification for their unilateral decision to regard the declaration of 1934 as not binding. The pact was, indeed, concluded for ten years without any possibility of denunciation during that time. It should be pointed out that the decision to regard the 1934 Declaration as not binding took place after the previous refusal of the German State to accept explanations as to the compatibility of the Anglo-Polish guarantee with the 1934 Declaration, which it was the intention of the Polish Government to furnish to the representative of the Reich in Warsaw.

5. Although the Polish Government do not share the view of the German Government that the treaty of 1934 has been violated by Poland, nevertheless, should the German Government attach importance to the fresh regulation, by means of a treaty, of Polish-German relations on a good neighbourly basis, the Polish Government would be prepared to entertain suggestions of this kind with the reservation of their fundamental observations contained above in the present memorandum.

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